



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 25 2013

CERTIFIED MAIL 7012 1010 0001 8097 3505
RETURN RECEIPT REQUESTED

Mr. W. Christopher Stephens
Southwood Developers, Inc.
CKC, LLC
Post Office Box 4127
Wilmington, North Carolina 28406

Re: Administrative Compliance Order on Consent
Docket No. CWA-04-2013-5755

Dear Mr. Stephens:

Enclosed, please find the executed Administrative Compliance Order on Consent (AOC), Docket No. CWA-04-2013-5755. The U.S. Environmental Protection Agency, Region 4 has also retained an original copy for our enforcement files.

Thank you for your cooperation in this matter. If you have any further comments or questions regarding this matter, please contact Mr. Christopher Parker at (404) 562-9838.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Giattina", written over a horizontal line.

James D. Giattina
Director
Water Protection Division

Enclosure

cc: Ms. Jennifer Frye
U.S. Army Corps of Engineers, Wilmington Regulatory Office

Mr. Jim Gregson
North Carolina Department Environment and Natural Resources, Wilmington

Mr. John Hennessey
North Carolina Department Environment and Natural Resources, Raleigh

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	
)	
Southwood Developers, Inc.,)	ADMINISTRATIVE
CKC, LLC,)	COMPLIANCE ORDER
Leland, North Carolina)	ON CONSENT
)	
RESPONDENTS)	Docket No.: CWA-04-2013-5755
<hr/>)	

I. Statutory Authority

1. Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a), provides that, whenever the U.S. Environmental Protection Agency ("EPA") finds that any person is in violation of any condition or limitation which implements, *inter alia*, Sections 301 and 404 of the CWA, 33 U.S.C. §§ 1311 and 1344, the EPA may issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that the EPA determines to be reasonable.

2. The following Findings of Fact and Determinations of Law are made and this Administrative Compliance Order on Consent ("AOC") is issued pursuant to the authority vested in EPA by Section 309(a) of the CWA, 33 U.S.C. § 1319(a), as amended. The authority to issue this AOC has been delegated from the Administrator of the EPA to the Regional Administrator of the EPA, Region 4. The Regional Administrator has further delegated this authority to the Director of the Water Protection Division, EPA, Region 4.

II. Findings of Fact and Determinations of Law

Upon Consent of the Parties by their attorney(s) and authorized officials, the Parties stipulate and find that the following facts are true and substantiated:

3. This AOC pertains to the deposition of dredged and/or fill material into jurisdictional wetlands and waters of the United States including mechanized land clearing and excavation with side cast which impacted approximately 3.85 acres of forested wetlands ("Discharge Area") adjacent to and abutting an unnamed perennial tributary of Rowel Branch, on property located along the north side of U.S. Highway 74/76, west of the town of Leland, Brunswick County, North Carolina, near latitude 34°16'06" north and longitude 78°04'29" west ("the Site"). (See Exhibits A and B). The deposition of dredged and/or fill material occurred during construction of a residential neighborhood known as Windsor Park.

4. Southwood Developers, Inc. and CKC, LLC ("Respondents") are companies duly organized under the laws of the State of North Carolina and, as such, are persons within the definition set forth under Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

5. Respondents at all times relevant to this AOC, were the owners and/or operators of the parcel of land located along the north side of U.S. Highway 74/76, west of Leland, Brunswick County, North Carolina, near latitude 34°16'06" north and longitude 78°04'29" west, which contained the Discharge Area.

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into waters of the United States except in compliance with a permit issued under, inter alia, Section 404 of the CWA, 33 U.S.C. § 1344.

7. Commencing on or about November 13, 2008 to the present, Respondents, and/or those acting on behalf of the Respondents, discharged dredged and/or fill material into wetlands on the Site using excavators, bull dozers and other earth moving machinery, during unauthorized activities associated with mechanical land clearing and excavation with side cast into waters of the United States associated with the construction of a residential neighborhood known as Windsor Park.

8. Respondents' unauthorized activities impacted approximately 3.85 acres of wetlands that are adjacent to and abutting an unnamed perennial tributary of Rowel Branch. Rowel Branch is a perennial stream that flows to Mill Creek. Mill Creek is a perennial stream that flows to Sturgeon Creek. Sturgeon Creek is tributary to the Brunswick River and both are tidally influenced navigable waters of the United States.

9. The discharged dredged and/or fill material, including earthen material deposited at the Discharge Area, are "pollutants" as defined under the CWA Section 502(6), 33 U.S.C. § 1362(6).

10. The earth moving machinery employed by the Respondents to deposit the dredged and/or fill material at the Discharge Area are "point sources" as defined under the CWA Section 502(14), 33 U.S.C. § 1362(14).

11. A "discharge of a pollutant" as defined at Section 502(12)(A) of the CWA, 33 U.S.C. § 1362(12)(A), is any addition of any pollutant to navigable waters from any point source.

12. Respondents' placement of the dredged and/or fill material into the Discharge Area constitutes a "discharge of pollutants" as defined under the CWA Section 502(12), 33 U.S.C. § 1362(12).

13. The term "navigable waters" as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), means the waters of the United States, including the territorial seas.

14. The Discharge Area includes "navigable waters" as that term is defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

15. At no time during the discharge of dredged and/or fill material into the Discharge Area from November 13, 2008 to the present, did the Respondents possess a permit under Section 404 of the CWA, 33 U.S.C. § 1344, authorizing the discharge of dredged and/or fill material by Respondents. Each discharge by the Respondents of pollutants into navigable waters

without the required permit issued under Section 404 of the CWA, 33 U.S.C. § 1344, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

16. Each day the material discharged by the Respondents remains in waters of the United States without the required permit under Section 404 of the CWA, 33 U.S.C. § 1344, constitutes a day of violation of Section 301 of the CWA, 33 U.S.C. § 1311.

17. Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311, by discharging pollutants into navigable waters without a permit.

18. On November 13, 2008, the U.S. Army Corps of Engineers (“Corps”) discovered that the Respondents, and/or those acting on behalf of the Respondents, discharged dredged and/or fill material into wetlands on the Site using earth moving machinery, during unauthorized activities associated with the construction of a residential neighborhood, Windsor Park.

19. On December 12, 2008, the Corps issued a Cease and Desist Order to the Respondents prohibiting Respondents from further placement of dredged and/or fill material in waters of the United States.

20. On February 10, 2011, the Corps referred the enforcement case against the Respondents to the EPA in accordance with the 1989 Memorandum of Agreement between the Corps and the EPA concerning federal enforcement of the CWA.

21. On August 26, 2011, the EPA issued an Administrative Compliance Order, Docket No. CWA-04-2011-5778, and 308 Information Request, Docket No. 308-011-012, to the Respondents, ordering the Respondents to submit a restoration plan and to answer specific questions about the unauthorized activity.

22. On August 29, 2011, Respondents submitted a response to the 308 Information Request.

23. On September 28, 2011, Southern Environmental Group, Inc., on behalf of the Respondents, submitted a restoration plan entitled Windsor Park Wetland Restoration Plan (“the Plan”) which establishes methods and success criteria for restoring the wetlands impacted to the EPA for review. The EPA provided comments and, on December 4, 2012, Respondents submitted a final Plan that addressed the EPA’s comments.

III. ORDER ON CONSENT

Based on the foregoing **FINDINGS OF FACT AND DETERMINATIONS OF LAW** and under the authority of Section 309(a) of the CWA, (33 U.S.C. § 1319(a)), **THE DIRECTOR HEREBY ORDERS AND THE RESPONDENTS HEREBY AGREE AND CONSENT TO THE PROVISIONS OF THE PARAGRAPHS BELOW.**

24. Respondents agree to the following:

a. The Respondents will restore the Discharge Area in accordance with the Plan (Exhibit C) submitted November 12, 2012. The restoration will include but not be limited to the following: (i) removal of any fill material from the Discharge Area; (ii) backfill of 0.35 acres of excavated wetlands to pre-impact elevations; (iii) soil surface preparation and replanting the entire 3.85 acre Discharge Area with tree species as described in the Plan planted at a density of not less than 350 stems per acre; (iv) those areas where any fill is removed, soil disturbance occurs, and the 0.35 acre backfilled area shall be stabilized using a wetland seed mix; invasive species and pest management; and (v) long term monitoring and reporting of Plan success.

b. The Respondents shall commence implementation of the attached Plan (Exhibit C) within 60 days of receipt of the signed AOC. Respondents shall notify the EPA of the actual construction start date for restoration within ten (10) days of Plan implementation. Restoration must be completed on or before September 1, 2013. Within fifteen (15) days of completion of Plan implementation, the Respondents shall submit a written statement of completion and schedule an inspection of the restored site.

c. The Respondents shall inspect the restored areas in accordance with the Plan in Exhibit C, which requires annual monitoring for a period of five (5) years or until such time as the success criteria outlined in the Plan are met for period of at least two (2) consecutive years.

d. After each annual inspection, the Respondents shall replace non-viable wetland species with the number of target wetland species to ensure the Plan's vegetative success criterion of 260 stems per acre is achieved. Wetland species should be replanted during the next vegetative dormant season following the annual inspection. Monitoring reports shall be submitted annually as outlined in the Plan and shall be due on or before December 31 of each year (See Table 1). The Respondents must submit a report to the EPA that includes but is not limited to the following:

- i. Date of inspection;
- ii. Color photographs from the same locations;
- iii. Observations of soils and hydrology as outlined in the 1987 Army Corps of Engineers Wetland Delineation Manual (Corps Manual) and the Regional Supplement to the Corps Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Supplement);
- iv. List of vegetation observed in the restoration areas;
- v. Any corrective measures taken to ensure stability of the mitigation areas;
- vi. A count of the number of plantings that survived; and

- vii. The number of plantings replanted (if required) to reach the 260 stems per acre success criteria.

TABLE 1	
Annual Monitoring Report	Due Date
1	31-Dec-13
2	31-Dec-14
3	31-Dec-15
4	31-Dec-16
5	31-Dec-17

e. The Respondents shall report to the EPA within twenty-four (24) hours of occurrence of any of the following events: the intentional or accidental encroachment into the restoration areas by any person that results in damage to the vegetation, soils, or hydrology of those areas; and any natural occurrence such as storm events, disease or pests that results in damage to the vegetation, soils, or hydrology of the restoration areas.

f. Successful restoration shall be achieved when there is a dominance of facultative or wetter species within the Discharge Area as described in the Corps Manual and Supplement. Wetland hydrology shall meet criteria outlined in the Corps Manual and Supplement. In the event success criteria are not met for two (2) consecutive years within the five (5) year monitoring period, the Respondents shall implement contingency planting as described in the Plan.

g. In the event that the success criteria are not met at the end of the five (5) year monitoring period, the Respondents shall apply to the Corps for Department of the Army authorization for any impacts that fail to meet the success criteria within the Discharge Area. Respondents shall comply with all requirements and conditions of an authorization, including but not limited to the implementation and/or execution of the Plan attached (Exhibit C) or as otherwise required by the Corps during the permitting process. Respondents shall provide to the EPA proof of coverage under a Corps permit within ten (10) days of receipt of such coverage from the Corps.

25. Any documentation required to be submitted in this agreement shall be mailed to the following address:

Mr. Chris Parker
U.S. Environmental Protection Agency
Water Protection Division
Wetlands Enforcement Section, 15th Floor
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

IV. GENERAL PROVISIONS

26. The provisions of this AOC shall apply to and be binding upon the Respondents, or their agents, employees, successors, and assigns.

27. If the Site is transferred prior to completion of the requirements of this AOC, such transfer will not absolve the Respondents from the responsibility of implementing and completing the obligations under this AOC or insuring that these requirements have been met. Completion of the requirements of this AOC will remain the responsibility of the Respondents.

28. This AOC is not and shall not be construed to be a permit under the CWA or its implementing regulations. This AOC does not exempt the Respondents from compliance with, or the requirements to obtain, any city, county, or state permits or authorizations before proceeding with the restoration activities.

29. Respondents acknowledge the jurisdiction of the EPA to issue this AOC.

30. Respondents waive any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondents may have with respect to any issue of fact or law set forth in this AOC, including, but not limited to, any right of judicial review of this AOC under the Administrative Procedure Act 5 U.S.C. §§ 701-706.

31. This AOC does not constitute a waiver, suspension, or modification of the terms and conditions of the CWA or its implementing regulations. Issuance of or compliance with this AOC does not relieve the Respondents from responsibility to comply with all requirements of the CWA, its implementing regulations, and any legal order issued under the Act or its regulations.

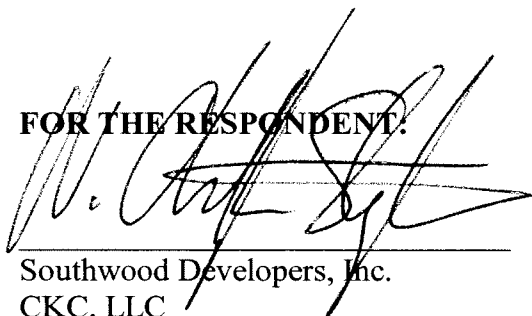
32. Issuance of this AOC shall not be deemed an election by EPA to forego any Administrative, Civil, or Criminal action to seek penalties, fines, or other appropriate relief under the CWA for the violations set forth in the Findings.

33. Failure to comply with the terms of this AOC may result in Respondents' liability for statutory civil penalties under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Should EPA commence an action seeking penalties for violations of this AOC, a United States District Court may impose civil penalties if the court determines that Respondents have violated the CWA and failed to comply with the terms of the AOC.

V. EFFECTIVE DATE

34. This AOC shall become effective upon the Respondents' receipt of the signed AOC.

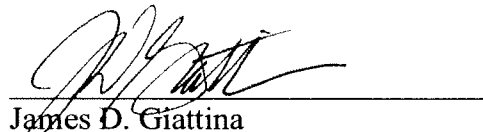
FOR THE RESPONDENT:



Southwood Developers, Inc.
CKC, LLC
Mr. W. Christopher Stephens
President

Date: 1/16/2013

**FOR THE U.S. ENVIRONMENTAL
PROTECTION AGENCY**



James D. Giattina
Director
Water Protection Division
U.S. Environmental Protection Agency
Region 4

Date: 1/24/13

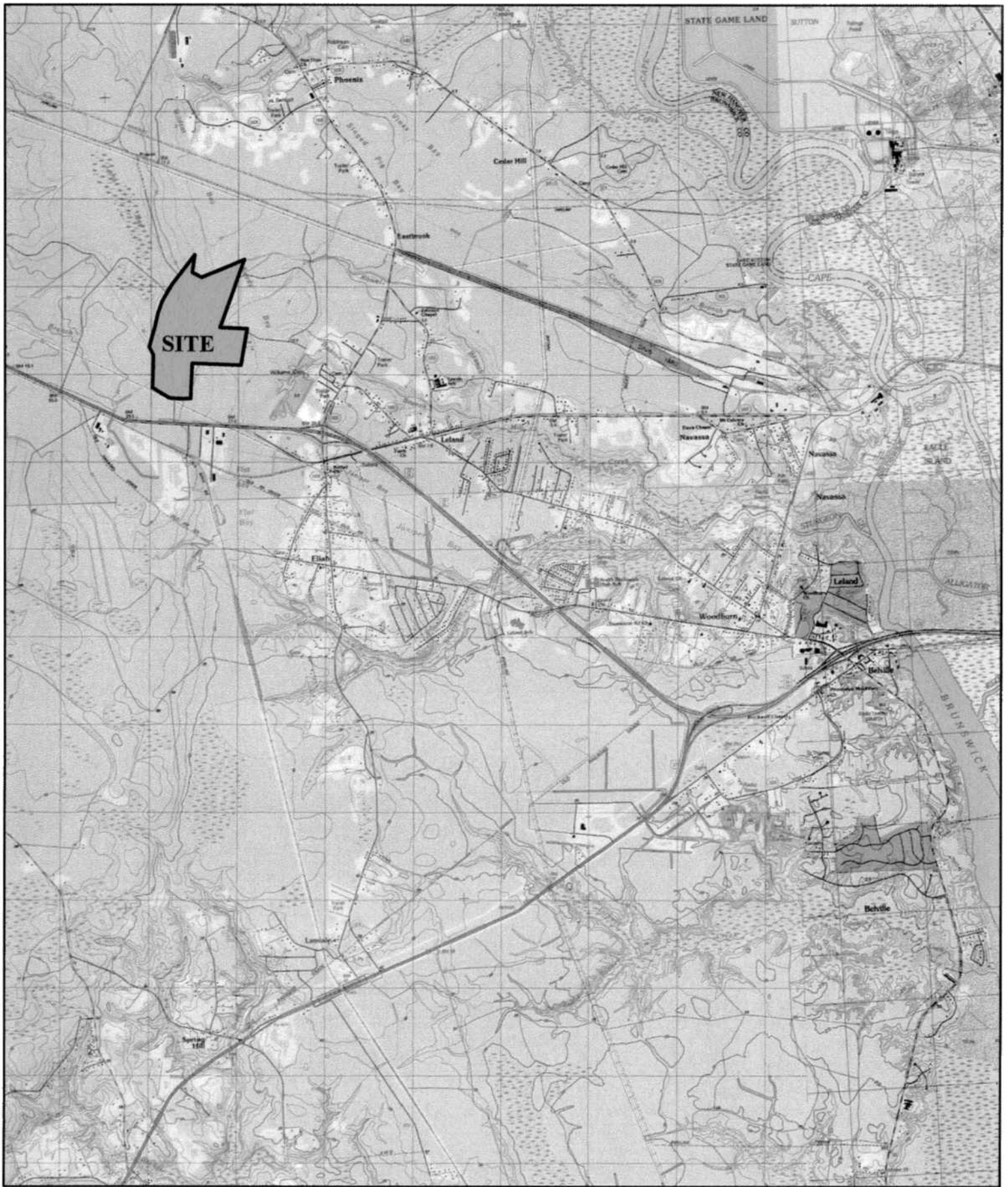
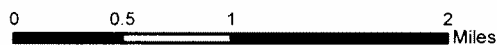


EXHIBIT A
Windsor Park
Brunswick County, NC



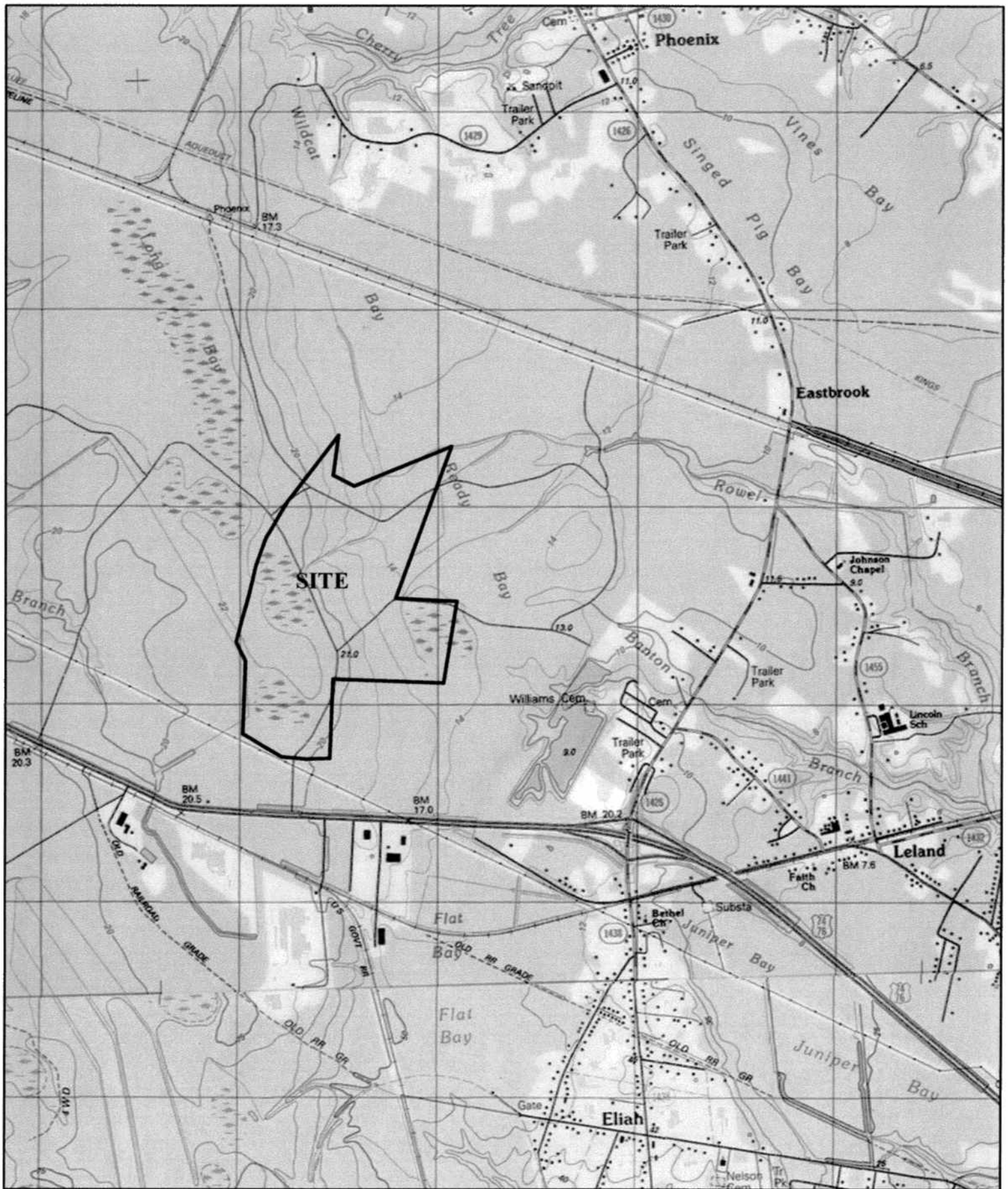


EXHIBIT B
Windsor Park
Brunswick County, NC

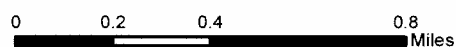


EXHIBIT C

**Windsor Park
Wetland Restoration Plan**
EPA Docket No.: CWA-04-2011-5778
USACOE Action ID#: 2008-1668

Prepared for:

**Mr. Christopher Parker
U.S. Environmental Protection Agency
Atlanta Federal Center / Region 4
Wetlands Enforcement Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303**

Prepared By:

**Mr. W. Christopher Stephens
Mr. Kevin L. McCarthy
Southwood Developers, Inc.
CKC, LLC.
Post Office Box 4127
Wilmington, North Carolina 28406**

**Southern Environmental Group, Inc.
5315 South College Road, Suite E
Wilmington, NC 28412
(910) 452-2711**

4 December 2012

Introduction

SEGi, on behalf of Southwood Developers, Inc. and CKC, LLC, herein referred to as the “Property Owners”, is submitting this proposed restoration plan to address the concerns of the United States Environmental Protection Agency (US EPA), brought forth as a result of site visits by the US EPA and the U.S. Army Corps of Engineers (COE). This area of concern is within wetlands and waters of the United States located in the Windsor Park Subdivision located north of N.C. Highway 74/76 near Leland, Brunswick County, N.C.

Background

13 November 2008

A site visit was conducted by ACOE (Kim Garvey) North Carolina Division of Water Quality (NCDWQ) (Chad Coburn) and Land Quality (Gary Beecher, Aisha Lau). This meeting was conducted at the request of NCDENR to review the location of a new stormwater ditch on property owned by WCM Enterprises, Inc. that would serve the stormwater outfall from Windsor Park. This ditch was dug to resolve a turbidity situation with an existing stormwater outfall. Prior to this field meeting, Mr. Beecher had observed turbid discharge entering a blue line stream from an existing borrow pit located on WCM, LLC property northeast of Windsor Park. To resolve this issue, Mr. Beecher requested that the borrow pit outlet be plugged, and a bypass ditch dug upstream in order to prevent any additional stormwater to enter the pit. A ditch was dug through uplands to handle stormwater from the existing Leland Industrial Park stormwater system to the south. During this site visit Ms. Garvey and Mr. Coburn inspected the ditch, the existing borrow pit and the northern portion of Windsor Park Subdivision.

Ms. Garvey expressed concern that there was possible fill material in an area adjacent to the borrow pit, construction of multiple roadways over waters of the United States, placement of stormwater outlets and rip-rap in waters of the United States, discharge of fill material in wetlands for site clearing and grading, and that the forestry operation being conducted was not in compliance with forestry exemption practices.

12 December 2008

The COE issued a letter to the property owners requiring them to cease and desist from any further work in waters of the United States. This letter refers to the area adjacent to the existing borrow pit which Ms. Garvey noted on the 13 November 2008 field visit. Southwood Developers removed the material to address Ms. Garvey’s concerns.

A subsequent field meeting was conducted with Ms. Garvey, Ms. Lau, and WCM Enterprises, LLC (Mr. Carter Mebane). The purpose of this meeting was to review the area Southwood Developers removed the spoil from and inspect Mr. Mebane’s forestry operation and obtain Ms. Garvey’s approval of both.

27 January 2009

SEGi drafted and sent a response to Ms. Garvey's 12 December 2008 letter, with responses to each of the concerns in the cease and desist document. This document was noted as preliminary information prior to the upcoming 2 February 2009 office meeting.

26 January 2011

The EPA and the COE conducted an inspection of the general area of the laydown yard and the storm water pond near the Bridgeport townhomes, for discharges of dredged and/or fill material into wetlands and waters of the United States. The area of concern noted during this inspection was some grading that Southwood Developers was undertaking, in response to a request by the State erosion control agent, in an attempt to restore the fringe of the COE delineated wetland which had begun to erode. Although this did require some minor soil disturbance within the edge of the wetland it was done solely as an effort to address the concerns of the State agent. It was not the intent of the developer to additionally impact wetlands but rather to address erosion and to prepare the area for final seeding and planting as part of the restoration efforts. The work had no other benefit but to stabilize and secure the edge of the wetland.

Site Conditions

Soils

Soil types mapped within the area of concern are Murville mucky fine sand. According to the Soil Survey of Brunswick County, North Carolina¹, the Murville series consists of very poorly drained, moderately rapidly permeable, nearly level soils on flats or in slight depressions on uplands. Included with this soil in mapping are intermingled areas of Murville soil that have a fine sand surface layer.

The majority of the soils within the delineated wetland, in the area of the laydown yard, appear to correspond with the soils mapping.

Vegetation

This wetland can be characterized as a scrub-shrub wetland or low pocosin (PFO3, 4)², by observation of similar habitat in the immediate vicinity. This wetland would be typically comprised of vegetation including pond pine, loblolly bay (*Gordonia lasianthus*), red bay (*Persea palustris*), sweet bay (*Magnolia virginiana*), swamp cyrilla (*Cyrilla racemiflora*), tall gallberry (*Ilex coriacea*), highbush blueberry (*Vaccinium corymbosum*), fedder bush (*Lyonia lucida*), cinnamon fern (*Osmunda cinnamomea*), and laurel-leaved greenbriar (*Smilax laurifolia*). Marginal areas of this wetland contained vegetation more frequently encountered in uplands such as long leaf pine (*Pinus palustris*), loblolly pine (*Pinus taeda*), bracken fern (*Pteridium aquilinum*), wire grass (*Aristida stricta*), and creeping blueberry (*Vaccinium crassifolium*). Native vegetation, including tall gallberry, fedder bush, laurel-leaved greenbriar, and soft rush (*Juncus effusus*), has begun to re-emerge within the disturbed area of the laydown yard.

¹ Soil Survey of Brunswick County, North Carolina, issued 1986

² Classification of Wetlands and Deepwater Habitats of the United States, Cowardin, et al 1979

Hydrology

The hydrologic regime of the laydown yard and the surrounding wetland/upland matrix consists primarily of precipitation driven sheet flow. The laydown yard exists in the middle of a topographically sloped project that ranges between a southern ridge at approximately 74 feet of elevation and lower elevations to the north of approximately 42 feet. The elevations in the immediate laydown yard area are approximately 63 feet.

Proposed Restoration Activity

There are approximately 3.85-acres of land within the area designated wetlands by the COE that are the focus of this report. 3.5 acres of this area was used for storage of construction materials. Although, it was bush hogged regularly, no significant clearing or grubbing had occurred. As no ditches or other permanent alterations to hydrology have occurred within the 3.5-acre wetland area and soils appear to only be disturbed within a small portion of the site, two types of restoration are being proposed. The remaining 0.35 acres of disturbance was associated with excavation of the stormwater pond near Bridgeport.

The first type of restoration will involve vegetative restoration and this will encompass the entire 3.5-acre timbered area. The purpose of this restoration is to address the areas which were not filled or grubbed but rather driven over, compacted and removed of post-timber vegetation. Southwood Developers is undertaking this aspect of restoration in a “good faith” effort to resolve the outstanding concerns of the agencies.

The second type of restoration involves the area within the laydown yard which was cleared and/or grubbed. Any fill material that was deposited within the site has been or will be removed as part of the restoration plan, from 1-6 inches in depth. In this area, if success criteria are not achieved in 5 years, or at a point the landowner and the agencies agree the site will not meet the success criteria, the contingency plan described in the Monitoring and Success Criteria will be implemented.

The third type of restoration involves partially backfilling the stormwater pond near Bridgeport. A 0.35 acre portion of this pond was determined to be excavated within wetlands. Clean hydric soil will be used to backfill the pond up to the wetland boundary.

Revegetation (~3.85 acres)

The area of concern has been cleared of all equipment and materials and the soil surface has been stabilized. The entire area has been seeded with a soil stabilizing seed mix to minimize runoff and erosion.

The property owner proposes replanting the 3.85 acres with the following trees, based upon an initial planting effort of 350 trees per acre:

Scientific Name	Common Name	Number of Stems
<i>Pinus taeda</i>	Loblolly pine	125
<i>Pinus serotina</i>	Pond pine	250
<i>Acer rubrum</i>	Red maple	200
<i>Quercus nigra</i>	Water oak	225
<i>Quercus laurifolia</i>	Laurel oak	275
<i>Magnolia virginiana</i>	Sweet bay	275

Total: 1350

As the root mat was left largely intact the understory has already begun to return and will continue when left undisturbed. Thus, no shrubs are proposed to be planted.

Revegetation of the restored portion of the stormwater pond will be achieved through broadcast of a wetland seed mix along all areas of the restored bank. Any deficiencies or bare areas will be remedied by supplemental seeding as necessary.

This planting effort will seek to satisfy the USACE's specified mitigation site success criteria by the end of the 5 year monitoring period.

Monitoring and Success Criteria

It is the intent of this section to outline the monitoring and success criteria relevant to the activities that occurred within the site. No hydrologic modifications were undertaken within the site and soils appear to only be disturbed within a small portion of the site. The only type of restoration proposed is vegetative restoration.

To ensure the successful establishment of the restored wetlands, long term monitoring will be implemented, for a period of 5 years or until it meets the monitoring and success criteria for 2 consecutive years. Monitoring events will take place on an annual basis, during the first week of December. The annual Monitoring Report will be submitted no later than December 31 of each year. This report will include vegetative count results, hydrologic and soils observations, with additional discussion on any remedial action that may need to occur before the end of the monitoring period.

Vegetation

Vegetative success will be based on the dominance of FAC or wetter, species within the restoration area. Stem counts will be performed on a yearly basis, which will include any volunteer woody hydrophytic vegetation, to determine vegetative success rate. Success of the vegetative component of this plan will be defined as 260 stems/acre surviving at the end of the monitoring period, of FAC or wetter species, both planted and volunteer, within the restoration area. Permanent photo stations will be established around the site with PVC pipes, in order to document site conditions during monitoring events.

Hydrology

As no hydrological modifications occurred as a result of the disturbance within the approximately 3.5 acres area, no hydrological modification or enhancement is proposed.

The Corps and EPA observed a temporary swale and catch basin within the Corps-established wetlands boundary, but this was filled in and graded back shortly after it was observed. This feature did not discharge water, and no negative effect was observed.

Success criteria of the hydrologic parameter requires the site to exhibit one or more of the primary indicators; or two or more of the secondary indicators of hydrology as outlined in the 1987 Army Corps of Engineers Wetlands Manual (TR-Y-87-1) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (TR-10-20), which includes a water table within 12 inches of the surface for at least twelve percent of the growing season, under normal conditions (e.g. normal rainfall, normal temperatures, etc.).

Soils

Since there has been vehicle traffic within the restoration area, the owner proposes to disc the soil to break up any compaction of the surface. This will provide a more hospitable medium for wetland plants, and allow for more natural movement of water through the soil profile. The soils within the restoration area will be observed during the annual site visits. Any hydric soil indicators will be noted at that time.

Contingency Plan

The owner proposes a two step Contingency Plan.

Step 1 - If the site doesn't achieve the specified vegetative success criteria in 2 years, the owner will work to address the specific deficiencies identified, be it supplemental planting, removal of undesirable or invasive species, etc.

Step 2 - Should Step 1 not meet the success standards and specifications set forth by the ACOE by the end of the 5 year monitoring period, the property owners are proposing that a payment be made to a ACOE approved mitigation bank for whatever quantity of wetland that could not be restored.